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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

NATIONAL STEEL CAR LIMITED,

Plaintiff,

v.

GREENBRIER-CONCARRIL LLC, and
GREENBRIER LEASING COMPANY,
LLC,

Defendants.

Case No.: 3:20-cv-01275-YY

GREENBRIER'S REPLY IN SUPPORT
OF ITS MOTION TO AMEND
SCHEDULING ORDER

Greenbrier did not intend to file a reply, but in its Opposition just filed, NSC raises a wholly new and unrelated issue: the number of prior art references Greenbrier can assert in its invalidity defense.¹ (ECF No. 153 at 3). NSC's request should be denied for at least two reasons.

First, it is premature. There has not been a single substantive deposition taken in the case; nor have there been any expert reports exchanged. Depositions and expert discovery will greatly impact Greenbrier's invalidity positions and the prior art it chooses to assert at trial.

Second, the Court's scheduling order (that the parties agreed to) already has a date for the potential narrowing of both (i) prior art references Greenbrier can assert, and (ii) the number of claims that NSC can assert, again after fact and expert discovery is complete. Specifically, the Court's October 26, 2021 Order requires the parties "to meet and confer to discuss narrowing the number of claims asserted and prior art references" one week *after* expert discovery closes. This currently is July 1, 2022.

NSC's new request should be denied.

Greenbrier stands by its original request to amend the schedule.

Dated: December 3, 2021.

By: /s/ Steven T. Lovett _____
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¹ NSC did not raise this issue during the parties' November 29, 2021 meet and confer regarding the case schedule.

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